

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Glenn Brown	Team: APU	CCRB Case #: 201409443	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/06/2014 7:00 AM	Location of Incident: § 87(2)(b)	Precinct: 26	18 Mo. SOL 2/6/2016	EO SOL 2/6/2016	
Date/Time CV Reported Mon, 09/15/2014 10:23 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 09/15/2014 10:23 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			WARRSEC
2. DT3 Michael Riso	06586	931925	WARRSEC
3. SGT Carlos Narvaez	01318	926391	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daurys Gutierrez	12684	950547	026 PCT
2. POM John Nugent	16211	950962	026 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Michael Riso	Abuse: Det. Michael Riso entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.SGT Carlos Narvaez	Abuse: Sgt. Carlos Narvaez entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
C. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	§ 87(2)(b)

Case Summary

On August 6, 2014, at approximately 7:00 am, § 87(2)(b) was asleep in his bedroom inside of § 87(2)(b), in Manhattan, when he was awakened by Sgt. Carlos Narvaez and Det. Michael Riso from the Queens Warrant Section opening his bedroom door (**Allegation A and B**). Det. Riso arrested § 87(2)(b) on an open I-Card and escorted him to the 102nd Precinct stationhouse. When § 87(2)(b) returned home, his roommate § 87(2)(b) informed him that the window frame, window, and security gate in front of the window had been damaged by the officers when they entered from the fire escape (**Allegation C**). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Mediation, Notice of Claim, and Criminal Histories

This case was ineligible for mediation. On May 20, 2015, a Notice of Claim inquiry was returned by the Comptroller's Office with negative results (see Board Review 02). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (see Board Review 04).
 - This is the second CCRB complaint to involve § 87(2)(b) (see Board Review 05). § 87(2)(b)
- § 87(2)(b)
- Det. Riso has been a member of service for 12 years and there are no substantiated allegations against him.
 - Sgt. Narvaez has been a member of service for 15 years and there are no substantiated allegations against him.

Findings and Recommendations

Explanation of Subject Officer Identification

Sgt. Narvaez and Det. Riso acknowledged entering the apartment through the window.

§ 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) told him the window, the window frame, and the window's security gate were damaged after § 87(2)(b) was arrested, though § 87(2)(b) did not see this damage. § 87(2)(b) was not present for the officers' entry or time inside the apartment. The officers both stated that the security gate was damaged when they arrived and denied that they damaged the window or its frame. Because § 87(2)(b) and § 87(2)(b) did not see which of the two officers allegedly damaged the window, window frame, and security gate, and because § 87(2)(b) did not provide any documentary evidence of this damage, the investigation could not determine the subject of this allegation. § 87(2)(g)

§ 87(2)(b)

- **Allegation A) Abuse of Authority: Det. Michael Riso entered § 87(2)(b) in Manhattan.**
- **Allegation B) Abuse of Authority: Sgt. Carlos Narvaez entered § 87(2)(b) in Manhattan.**

§ 87(2)(b) stated that he was asleep in his bedroom when he was awakened by Det. Riso and Sgt. Narvaez opening his bedroom door. While they were still in his apartment, § 87(2)(b) asked the officers how they gained entry to the apartment and one of them told him that they used the fire escape. § 87(2)(b) heard later from his downstairs neighbor that officers had entered that apartment, removed the window unit air conditioner, and went out onto the fire escape. The tenants of that apartment were uncooperative with the investigation (see Board Review 06).

Both Det. Riso and Sgt. Narvaez acknowledged entering § 87(2)(b)'s apartment through a window in § 87(2)(b)'s empty bedroom from the fire escape. Both officers were also consistent in describing the reason for their entry, though the exact timing of key events and details are disputed. The officers stated that they came to § 87(2)(b)'s apartment with only an I-Card (see NYPD Documents 05), something confirmed by ADW search results (see NYPD Documents 01), and found that the apartment's front door was ajar. The officers began knocking on the door and then heard movement coming from inside.

Sgt. Narvaez stated that these two factors together, that the door was ajar and that there was the sound of movement inside, immediately made him think that there might have been a burglary in progress. Sgt. Narvaez stated that Det. Riso went to the roof to ensure that a burglar could not have utilized the fire escape to gain access to the apartment via the roof.

Det. Riso stated that he thought the door being ajar and movement inside was only unusual. He held the doorknob and knocked, so the door would not swing open, and identified that they were officers. After knocking for 10-15 minutes, Det. Riso then went to the roof of the apartment building to make sure that § 87(2)(b) would not be able to escape to the roof via the fire escape. Det. Riso stated that it was not until later, when he scaled the fire escape from the street and arrived at the fifth floor window and found that the window was open and two bars of the security gate had been cut and bent open that he thought that there might be a burglary in progress. Det. Riso thought that there might be burglary in progress because the apartment door was ajar, no one inside was answering the officers' shouts despite them having heard movement inside, and because the security gate was open and damaged. Both officers stated that Sgt. Narvaez obtained permission from the apartment below § 87(2)(b) to enter their apartment, remove the air conditioner unit, and go out onto their fire escape to get to § 87(2)(b)'s apartment. Once Sgt. Narvaez met Det. Riso, they agreed that a burglary might be in progress. The officers entered the apartment, determined that it was empty except for § 87(2)(b) and placed him under arrest. Sgt. Narvaez believed that the front door of the apartment was ajar after he entered the apartment. None of the police documentation prepared in relation to § 87(2)(b)'s apprehension, which includes Sgt. Narvaez's and Det. Riso's memo books and the DD-5, noted that there was ever the suspicion that there was a burglary in progress at the apartment (see NYPD Documents 02, 03, and 04). The DD-5 merely stated that § 87(2)(b) was apprehended without further incident.

PO Gutierrez, a 26th Precinct Patrol officer who Sgt. Narvaez requested to the scene to have a uniformed presence, stated that throughout the time he stood in front of the apartment door knocking with Sgt. Narvaez and Det. Riso, the door was completely shut and at no time did Sgt. Narvaez or Det. Riso ever inform him that they suspected a burglary was in progress. At some point, Det. Riso left them to go upstairs, and 10 to 15 minutes later, while Sgt. Narvaez and PO Gutierrez continued knocking on the closed front door, the door was opened from the inside by Det. Riso, who allowed Sgt. Narvaez and PO Gutierrez inside. PO Gutierrez denied that Sgt. Narvaez ever went out to the fire escape through a fourth floor apartment. PO Gutierrez did not know how Det. Riso entered the apartment.

§ 87(2)(g)

People v. Payton 445 U.S. 573 (1980) requires that officers have either an arrest warrant or exigent circumstances in order to enter a civilian's home and effect an arrest (see Board Review 07).

§ 87(2)(g)

- **Allegation C) Abuse of Authority: An officer damaged § 87(2)(b)'s property.**
§ 87(2)(b) stated that § 87(2)(b) informed him that the window, window frame, and security gate were damaged after § 87(2)(b) returned home. For the above described reasons in the Explanation of Subject Officer Identification section, the investigation could not determine which officer was responsible for this alleged damage. § 87(2)(g)

Team: 1

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date